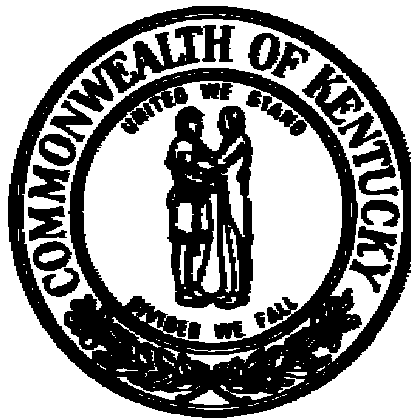


LAWS AND REGULATIONS RELATING TO

Certification as a Professional Art Therapist



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The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

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Kentucky Revised Statutes

309.130 Definitions for KRS 309.130 to 309.1399.

As used in KRS 309.130 to 309.1399, unless the context otherwise requires:

- (1) "Board" means the Kentucky Board of Certification for Professional Art Therapists;
- (2) "Certified professional art therapist" means a person who has completed a master's or doctoral degree program in art therapy, or an equivalent course of study, from an accredited educational institution and who is certified by the board;
- (3) "Certificate holder" means a certified professional art therapist certified under the provisions of KRS 309.130 to 309.1399; and
- (4) "Accredited institution" means a university or college accredited by a nationally-recognized accrediting agency of institutions of higher education, or an institution or clinical program approved by the American Art Therapy Association, Inc.

309.1305 Application of statutes -- Construction of chapter -- Misuse of title or status prohibited.

(1) The provisions of KRS 309.130 to 309.1399 shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including, but not limited to, physicians, social workers, psychologists, and nurses, or students within accredited training programs of these professions. Nothing in KRS 309.130 to 309.1399 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

(2) No person shall use the title certified professional art therapist or hold himself out as having this status, unless he is certified by the board.

309.131 Kentucky Board of Certification for Professional Art Therapists.

(1) There is hereby created the Kentucky Board of Certification for Professional Art Therapists. The board shall consist of five (5) members who are United States citizens and have been Kentucky residents for at least five (5) years prior to their appointment. The board membership shall be determined as follows:

(a) Four (4) members shall be professional art therapists who are certified pursuant to KRS 309.133, and shall have engaged in art therapy practice for at least five (5) years. These members shall not hold any elected or appointed office in any professional organization of art therapy or closely related field during their tenure on the board. The initial four (4) professional members shall meet requirements for certification and be certified within one (1) year after July 15, 1994; and

(b) One (1) member shall represent the public. The public member shall not have been certified or have practiced as a professional art therapist, nor have any significant financial interest, either direct or indirect, in the profession of art therapy.

(2) All members of the board shall be appointed by the Governor for staggered terms of four (4) years.

(3) Initially, the four (4) professional members shall be appointed from a list of eight

(8) names submitted by the board of directors of the Kentucky Art Therapy Association, Inc., and the one (1) public member shall be appointed by the Governor and shall be a citizen at large. The initial board shall be appointed so that the term of one (1) professional member expires within one (1) year of the initial appointment of the board, the term of one (1) professional member expires within two (2) years of the appointment of the initial board, and the term of one (1) professional member expires within three (3) years of the appointment of the initial board. The public member and the fourth professional member shall serve a full four (4) year term on the initial board. Each member shall hold office until a successor

is appointed. Vacancies shall be filled in the same manner as original appointments. No appointee shall serve more than two (2) terms.

(4) Beginning July 1, 1996, each board candidate shall be certified as an art therapist prior to nomination and shall be actively engaged in the practicing or teaching of art therapy, except for the one (1) public member.

(5) Members of the board shall receive no compensation, perquisite, or allowance.

(6) The board shall elect annually from its membership a chairman, secretary, and other officers as necessary to carry out its duties.

(7) The board shall meet at least two (2) times each year. Additional meetings may be called by the chairman, upon the written request of at least two (2) members of the board. A simple majority of the board members shall constitute a quorum of the board.

309.1315 Duties of board.

The board shall:

(1) Promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399;

(2) Select the examinations for certification and administer the examinations at least annually;

(3) Establish the application deadline for and score required to pass the examinations;

(4) Process applications and conduct and review the required examinations;

(5) Issue certificates to applicants who meet the requirements of KRS 309.133 to 309.137;

(6) Deny, suspend, or revoke a certificate to practice art therapy;

(7) Censure, reprimand, or place a certificate holder or applicant on probation for a period not to exceed one (1) year;

(8) Maintain a current register of certificate holders as a matter of public record; (9) Establish criteria for continuing education;

(10) Establish procedures for receiving, investigating, and resolving complaints against certificate holders;

(11) Conduct administrative hearings in accordance with KRS Chapter 13B for disciplinary actions taken under authority of subsections (6) and (7) of this section;

(12) Approve the level of supervision and experience required for persons seeking certification;

(13) Assess fees for the issuance and renewal of certificates to cover administrative and operating expenses of the board, and authorize all disbursements necessary to carry out the provisions of KRS 309.130 to 309.1399;

(14) Implement an impaired professional art therapist treatment program; and

(15) Establish a code of ethics for professional art therapists.

309.133 Requirements for certification -- Certification without examination -- Reciprocity.

(1) The board shall issue a certificate as a certified professional art therapist to any person who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant is at least twenty-one (21) years of age, demonstrates professional competency by satisfactorily passing the required examination, is a registered art therapist as defined by the Art Therapy Credentials Board, Inc., is a certified art therapist as defined by the Art Therapy Credentials Board, Inc., and has:

(a) Received a master's degree or doctoral degree in art therapy that includes six hundred (600) hours of supervised internship experience from an accredited institution and has completed an additional one thousand (1,000) client contact hours of postgraduate experience under appropriate supervision; or

(b) Received a master's degree or doctoral degree in a related field, has a minimum of twenty-one (21) semester hours of sequential course work in the history, theory, and practice of

art therapy, has completed seven hundred (700) hours of supervised internship experience from an accredited institution, and has completed an additional two thousand (2,000) client contact hours of postgraduate experience under appropriate supervision.

(2) The board may approve on a case-by-case basis applicants who have a master's degree or a doctoral degree from nonaccredited institutions.

(3) If an applicant has met all of the requirements for certification except satisfactorily passing the required examination, the applicant shall be scheduled to take the next examination following the approval of the examination.

(4) An applicant for certification as a professional art therapist may be certified without examination if the applicant files a completed application within one (1) year of the effective date of the establishment of the board, accompanied by the required fees, and if the board determines that the applicant meets all other requirements for certification as a professional art therapist.

(5) An applicant for certification as a professional art therapist may be certified without examination if the applicant files a completed application within one (1) year of the effective date of the establishment of the board, accompanied by the required fees, and if the board determines that the applicant meets all other requirements for certification as a professional art therapist.

(6) The board may issue a certificate to an applicant without examination if the person possesses a valid regulatory document issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia, or any foreign nation that in the judgment of the board has requirements substantially equivalent to or exceeding the requirements in this section.

(7) The board may set criteria for continuing education and supervisory experience.

309.1335 Renewal of certificate -- Continuing education experience requirement -- Suspension -- Reinstatement -- Retirement notification.

(1) Each certificate holder shall renew the certificate to practice art therapy biennially by:

(a) Submitting a renewal application on a form provided by the board paying a certificate renewal fee; and

(b) Producing evidence of completion of relevant professional continuing education experience satisfactory to the board and not to exceed forty (40) hours per renewal cycle.

(2) A ninety (90) day grace period shall be allowed for each certificate holder after the certification period, during which time the certificate may be renewed upon payment of the renewal fee, the late fee, and compliance with all renewal requirements.

(3) Any certificate granted by the board shall be automatically suspended if the holder fails to apply for the certificate renewal pursuant to this section within a period of three (3) months after the renewal deadline; however, any suspended certificate may be restored by the board upon payment of a reinstatement fee not to exceed one hundred dollars (\$100) in addition to any unpaid renewal or late fees. Failure to renew a certificate within three (3) months from the date of suspension as provided in this section shall cause the certificate to be automatically revoked. Reinstatement of a revoked certificate shall require the certificate holder to reapply and meet all current standards for certification.

(4) A person certified under the provisions of KRS 309.133 who intends to retire as a certified professional art therapist shall notify the board in writing before the expiration of his current certification. If, within a period of five (5) years from the year of retirement, the certificate holder wishes to resume practice as a certified professional art therapist, he shall notify the board in writing, and upon giving proof of completing the required continuing education and the payment of an amount equivalent to elapsed renewal fees, the certificate shall be restored in full effect.

309.135 Fees.

The board shall set the amount of the fees required to be paid by the applicants for certification and the certificate holders including, but not limited to, the following:

- (1) For an application for initial certification, the fee shall be nonrefundable and shall not exceed two hundred dollars (\$200);
- (2) To take an examination, the fee shall not exceed one hundred dollars (\$100), or, if a national examination is used, the amount of the fee shall not exceed the cost of the examination by more than twenty-five percent (25%);
- (3) The renewal fee shall not exceed two hundred dollars (\$200);
- (4) For a duplicate or replacement certificate, the fee shall not exceed twenty-five dollars (\$25);
- (5) For failure to renew a certificate within the allotted grace period pursuant to KRS 309.1335(3), the fee shall not exceed one hundred dollars (\$100); and
- (6) Other reasonable fees for administrative services.

309.137 Disciplinary action.

(1) The board may deny any application, or suspend or revoke any certificate held or applied for under the provisions of KRS 309.133 if the person:

- (a) Is found guilty of fraud, deceit, or misrepresentation in procuring or attempting to procure a certificate to practice art therapy;
- (b) Is adjudicated mentally incompetent;
- (c) Is found guilty of a felony or misdemeanor involving moral turpitude;
- (d) Is found guilty of unprofessional or unethical conduct in this or any other jurisdiction;
- (e) Has been using any controlled substance or alcoholic beverage to an extent or in a manner dangerous to the person, any other person, or the public, or to an extent that the use impairs the ability to perform as a certified professional art therapist;
- (f) Has violated any provision of KRS 309.130 to 309.1399; or
- (g) Willfully or negligently divulges a professional confidence.

(2) A certified copy of the record of conviction shall be conclusive evidence of the conviction.

(3) Disciplinary proceedings may be initiated upon the receipt by the board of a sworn complaint by any person, including members of the board.

309.138 Certified professional art therapy practice board fund.

There is hereby created in the State Treasury the certified professional art therapy practice board fund. All funds received by the board under the provisions of KRS 309.133 to 309.137 shall be deposited with the State Treasurer for credit to the certified professional art therapy board fund. The State Treasurer shall invest the fund as all other state funds are invested and income from investment of the fund shall be credited to the fund. The balance remaining in the fund at the end of any fiscal year shall not revert to the general fund. The money in the certified professional art therapy board fund shall be appropriated to the board and shall be used for the purpose of carrying out the provisions of KRS 309.130 to 309.1399.

309.1399 Penalty.

Any person who violates the provisions of KRS 309.130 to 309.1399 shall be guilty of a Class A misdemeanor.

Kentucky Administrative Regulations

201 KAR 34:010. Certification of professional art therapists.

RELATES TO: KRS 309.1315(5), 309.133

STATUTORY AUTHORITY: KRS 309.1315(1), (11)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(1) requires the board to promulgate administrative regulations to implement the provisions of KRS 309.130 to 309.1399. This administrative regulation establishes the requirements for certification of professional art therapists.

Section 1. (1) Proof of certification or registration with the Art Therapy Certification Board, Inc. shall be accepted as evidence that the applicant has met the educational and experiential requirements for certification as set forth in KRS 309.133(1).

(2) Supervision shall be considered appropriate if:

(a) For group supervision it:

1. Is provided by an approved supervisor to an individual or a group not exceeding six (6) individuals;

2. Enhances the professional development of a supervisee in the provision of professional art therapy services; and

3. Is equally distributed throughout the period of supervision; and

(b) For individual supervision, it consists of case consultation between the supervisor and the supervisee that is restricted to the supervisee's cases.

(3) An approved supervisor shall:

(a) Be certified as a professional art therapist in the commonwealth of Kentucky with a minimum of four (4) years of experience in the practice of art therapy; or

(b) Until July 15, 1999, hold a master's degree in another mental health profession whose education and experience demonstrate to the board a level of competence equivalent to that established by paragraph (a) of this subsection. After July 15, 1999, a supervisor qualifying under this paragraph shall no longer be considered as an approved supervisor.

(4) To identify himself as a certified professional art therapist, a certified professional art therapist may use "CPAT".

(5) To qualify, an internship experience shall have been an internship in the field of art therapy.

(6) To qualify, a postgraduate experience shall have been the practice of art therapy after completion of and receipt of the qualifying degree pursuant to KRS 309.133.

(7)(a) The practice of art therapy shall include the rendering to individuals, families, or groups, services that use art media and verbalization as a means of expressions and communication to promote perceptive, intuitive, affective and expressive experiences that:

1. Alleviate distress, reduce physical, emotional, behavioral, and social impairment; and

2. Lead to growth or reintegration of one's personality.

(b) Art therapy services shall include:

1. Assessment and evaluation;

2. Development of treatment plans, goals and objectives;

3. Case management services; and

4. Therapeutic verbal and visual treatment.

(8) "Twenty-one (21) semester hours of sequential course work in the history, theory, and practice of art therapy" shall include completion of the following:

(a) A minimum of twenty-one (21) semester hours, thirty-one (31) quarter hours, or 315 clock hours in art therapy courses from an accredited institution as defined in KRS 309.130(4);

(b) The required core curriculum shall include the following components:

1. History of art therapy;

2. Theory of art therapy;

3. Techniques of practice in art therapy;
4. The application of art therapy with people in different treatment settings;
5. Psychopathology;
6. Assessment of patients and diagnostic categories;
7. Ethical and legal issues of art therapy practice;
8. Standards of good practice in art therapy; and
9. Matters of cultural diversity bearing on the practice of art therapy.

201 KAR 34:015. Examination.

RELATES TO: KRS 309.1315(1)-(4), 309.133(1)

STATUTORY AUTHORITY: KRS 309.1315(1)-(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315 requires the board to promulgate an administrative regulation establishing the examination requirements for an applicant for certification. KRS 309.133 requires an applicant to successfully complete the required examination prior to certification. This administrative regulation prescribes the procedures to be followed in making application to the board for certification.

Section 1. General Requirements. (1) An applicant for examination shall:

- (a) Submit a complete CPAT-01 application; and
- (b) Pay the applicable fees established in 201 KAR 34:020.

(2) Once the application has been approved by the board, the applicant shall be scheduled to take the examination at the next regularly-scheduled date.

Section 2. Examination for Licensure. An applicant for licensure shall take the Art Therapy Credentials Board Certification Examination and obtain a passing score.

Section 3. Incorporation by Reference. (1) "CPAT-01 (2001)", Board of Certification for Professional Art Therapists, is incorporated by reference.

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201 KAR 34:020. Fees.

RELATES TO: KRS 309.133, 309.1335, 309.138

STATUTORY AUTHORITY: KRS 309.1315(1), (4), (13), 309.135

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(13) and 309.135 require the board to promulgate an administrative regulation establishing fees for certification, examination, renewal and reinstatement of the certification. This administrative regulation establishes those fees.

Section 1. Application Fee. (1) The application fee for board review of the application for certification shall be \$100.

(2) The application fee shall be nonrefundable.

Section 2. Examination Fees. The following fees shall be paid in connection with the examinations required by the board:

- (1) The fee for the written examination shall be \$100.
- (2) The fee for retaking the examination shall be \$100.

Section 3. Initial Certification Fee. (1) The initial certification fee shall be \$100 for an applicant for certification.

(2) If the applicant successfully completes all requirements for certification, this fee shall cover certification for the initial two (2) year period.

Section 4. Renewal Fee. The renewal fee for certification shall be \$200 for a two (2) year period.

Section 5. Reinstatement Fee. The reinstatement fee for a certificant who applies for reinstatement within ninety (90) days of the original renewal deadline shall be \$100, which shall be paid in addition to the renewal fee set out in Section 4 of this administrative regulation.

201 KAR 34:030. Continuing education requirements.

RELATES TO: KRS 309.1335(1)(b)

STATUTORY AUTHORITY: KRS 309.1315(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1335(1)(b) authorizes the board to promulgate an administrative regulation requiring professional art therapists to complete continuing education requirements as a condition of renewal of their certification. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Definitions. As used in this administrative regulation, unless the context otherwise requires:

(1) "Academic courses offered by an accredited postsecondary institution" means:

(a) An art therapy course, designated by an art therapy course title or content, beyond the undergraduate level; or

(b) An academic course, relevant to professional art therapy, beyond the undergraduate level.

(2) "Approved" means recognized by the Kentucky Board of Certification of Professional Art Therapists.

(3) "Continuing education hour" means fifty (50) clock minutes of participating in continuing educational experiences.

(4) "Program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or series.

(5) "Provider" means an organization approved by the Kentucky Board of Certification for Professional Art Therapists for providing continuing education programs.

(6) "Relevant" means having content applicable to the practice of professional art therapy as determined by the board. Relevant continuing education activities shall be in the following content areas in order to be considered relevant:

(a) Psychological and psychotherapeutic theories and practice;

(b) Art therapy assessment;

(c) Art therapy theory and practice;

(d) Client populations;

(e) Art theory and media; and

(f) Professionalism and ethics.

(7) "Successful completion" means that the certificate holder has:

(a) Satisfactorily met the specific requirements of the program; and

(b) Earned the continuing education hours.

Section 2. Accrual of Continuing Education Hours; Computation of Accrual. (1) A minimum of forty (40) continuing education hours shall be accrued by each person holding certification during the two (2) year certification period for renewal.

(2) All hours shall be in or related to the field of professional art therapy.

Section 3. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the certificate shall be directly related to the professional growth and development of a professional art therapy practitioner. They may be earned by completing any of the following educational activities:

(1) Programs not requiring board review and approval. A program provided or approved by any of the following providers shall be deemed to be relevant to the practice of professional art therapy and shall be approved without further review by the board:

(a) The American Art Therapy Association or any of its state affiliates;

(b) The Art Therapy Certification Board;

(c) The American Association of Marriage and Family Therapy and its state affiliates;

(d) The National Association of Social Workers and its state affiliates;

- (e) The American Psychological Association and its state affiliates;
- (f) The American Counseling Association and its state affiliates;
- (g) The National Board of Certified Counselors; and
- (h) Academic courses as set forth in Section 1(4) of this administrative regulation. A general education course, elective or designated to meet degree requirements, shall not be acceptable. Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equals fifteen (15) continuing education hours.

(2) Programs requiring board review and approval. A program from any of the following sources shall be reviewed by the board and determined whether it is relevant:

- (a) A program, including a home study course and in-service training provided by another organization, educational institution, or service provider approved by the board;

- (b) A program or academic course presented by the certificate holder. A presenter of a relevant program or academic course shall earn two (2) continuing education hours for each contact hour of instruction. Credit shall not be issued for repeated instruction of the same course;

- (c) A publication in a professionally recognized or juried publication. Continuing education hours shall be granted for a relevant publication as follows:

- 1. Five (5) continuing education hours for each published abstract or book review;
- 2. Ten (10) continuing education hours for each published article;
- 3. Twenty (20) continuing education hours for each book chapter or monograph; and
- 4. Forty (40) continuing education hours for each published book; and

- (d) An exhibition in a juried art show. An exhibitor at a juried art show shall earn ten (10) continuing education hours for each exhibition.

Section 4. Procedures for Preapproval of Continuing Education Sponsors and Programs.

(1) Any entity seeking to obtain approval of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 5 of this administrative regulation.

(2) A continuing education activity shall be qualified for approval if the board determines the activity being presented:

- (a) Is an organized program of learning;
- (b) Pertains to subject matters which integrally relate to the practice of art therapy;
- (c) Contributes to the professional competency of the licensee; and
- (d) Is conducted by individuals who have educational training or experience acceptable to the board.

Section 5. Procedures for Approval of Continuing Education Programs. (1) A course that has not been preapproved may be used for continuing education if approval is secured from the board.

(2) The following information shall be submitted for board review of a program:

- (a) A published course or seminar description;
- (b) The name and qualifications of the instructor;
- (c) A copy of the program agenda indicating hours of education, coffee and lunch breaks;
- (d) Number of continuing education hours requested;
- (e) Official certificate of completion or college transcript from the sponsoring agency or college; and
- (f) Application for continuing education credits approval.

Section 6. Responsibilities and Reporting Requirements of Certificate Holders. (1) During the certification renewal period, the board shall require up to fifteen (15) percent of all certificate holders to furnish documentation of the completion of the appropriate number of continuing education hours. Verification of continuing education hours shall not otherwise be reported to the board.

(2) A certificate holder shall:

- (a) Be responsible for obtaining required continuing education hours;

(b) Identify his own continuing education needs and seek activities that meets those needs;

(c) Seek ways to integrate new knowledge, skills and activities;

(d) Select approved activities by which to earn continuing education hours;

(e) Submit to the board, if applicable, a request for approval for continuing education activities not approved as required in Section 3(2) of this administrative regulation;

(f) Document attendance, participation in, and successful completion of continuing education activity for a period of two (2) years from the date of the renewal; and

(g) Maintain records of continuing education hours;

(3) The following items may be used to document continuing education activity:

(a) Transcript;

(b) Certificate;

(c) Affidavit signed by the instructor;

(d) Receipt for the fee paid to the sponsor;

(e) Written summary of experiences that are not formally or officially documented otherwise.

(4) Comply with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 335.340(1)(b) and shall result in:

(a) Refusal to renew certification;

(b) Suspension of certification; or

(c) Revocation of certification.

Section 7. Carry-over of Continuing Education Hours, Prohibited. Continuing education hours earned in excess of those required under Section 2 of this administrative regulation shall not be carried over into the immediately following certification renewal period.

Section 8. Board to Approve Continuing Education Hours; Appeal of Denial. (1) If an application for approval of continuing education hours is denied, in whole or in part, the person holding certification shall have the right to appeal the board's decision.

(2) An appeal shall be:

(a) In writing;

(b) Received by the board within thirty (30) days after the date of the decision denying approval of continuing education hours; and

(c) Conducted in accordance with KRS Chapter 13B.

Section 9. Waiver or Extensions of Continuing Education. (1) On application, the board may grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

(a) Medical disability of the certificate holder;

(b) Illness of the certificate holder or an immediate family member;

(c) Death or serious injury of an immediate family member.

(2) A written request for waiver or extension of time involving medical disability or illness shall be:

(a) Submitted by the person holding certification; and

(b) Accompanied by a verifying document signed by a licensed physician.

(3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the person holding certification shall reapply for the waiver or extension.

Section 10. Continuing Education Requirements for Reinstatement or Reactivation of Certification. (1) A person requesting reinstatement or reactivation of certification shall submit evidence of forty (40) hours of continuing education within the twenty-four (24) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(2) If the board reinstates certification, the person shall obtain forty (40) hours of continuing education within six (6) months of the date on which certification is reinstated.

(3) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section

201 KAR 34:040. Code of ethics.

RELATES TO: KRS 309.1315(14)

STATUTORY AUTHORITY: KRS 309.1315(1), (14)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315(14) requires the board to promulgate a code of ethics for certified professional art therapists. This administrative regulation establishes the required code of ethics.

Section 1. Responsibility to Patients. (1) A professional art therapist shall:

- (a) Advance and protect the welfare of the patient;
- (b) Respect the rights of a person seeking assistance;
- (c) Make reasonable efforts to ensure that services are used appropriately; and
- (d) Display a copy of his certificate in the principle place of business.

(2) A professional art therapist shall not:

- (a) Discriminate against or refuse professional service to anyone on the basis of:

- 1. Race;
- 2. Gender;
- 3. Religion; or
- 4. National origin;

- (b) Exploit the trust and dependency of a patient;

(c) Engage in a dual relationship with a patient, including a social, business, or personal relationship that may:

- 1. Impair professional judgment;
- 2. Incur a risk of exploitation of the patient; or
- 3. Otherwise violate a provision of this administrative regulation.

If a dual relationship cannot be avoided, and does not impair professional judgment, incur a risk of exploitation of the patient, or otherwise violate a provision of this administrative regulation, a therapist shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation of the patient does not occur.

(d) Engage in a sexual relationship with a current patient or with a former patient for two (2) years following the termination of therapy;

- (e) Use the professional relationship with a patient to further personal interests;

(f) Continue therapeutic relationships unless it is reasonably clear that the patient is benefiting from the relationship;

(g) Fail to assist a person in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help;

(h) Abandon or neglect a patient in treatment without making reasonable arrangements for the continuation of treatment;

(i) Videotape, record, or permit third-party observation of therapy sessions without having first obtained written informed consent from the patient;

(j) Engage in sexual or other harassment or exploitation of a patient, student, trainee, supervisee, employee, colleague, research subject, or actual or potential witness or complainant in investigations and ethical proceedings; or

(k) Diagnose, treat, or advise on problems outside the recognized boundaries of competence.

Section 2. Confidentiality. (1) A professional art therapist shall respect and guard the confidences of each individual patient.

(2) A professional art therapist shall not disclose a patient confidence except:

- (a) As mandated, or permitted by law.
- (b) To prevent a clear and immediate danger to a person.
- (c) During the course of a civil, criminal, or disciplinary action arising from the therapy at which the professional art therapist is a defendant.

(d) In accordance with the terms of a written informed consent agreement.

(3) A professional art therapist may use patient or clinical materials in teaching, writing, and public presentations if:

(a) Written informed consent has been obtained in accordance with subsection (1)(d) of this section; or

(b) Appropriate steps have been taken to protect patient identity and confidentiality.

(4) A professional art therapist shall store or dispose of patient records so as to maintain confidentiality.

Section 3. Public Use and Reproduction of Patient Art Expression and Therapy Sessions.

(1) An art therapist shall obtain written informed consent from the patient or a legal guardian, if applicable, before:

(a) Photographing or videotaping a patient's art expression;

(b) Making an audio recording of an art therapy session;

(c) Permitting third-party observation of an art therapy session; or

(d) Duplication of an art therapy session in any matter.

(2) An art therapist shall not use clinical materials in teaching, writing and public presentations unless written informed consent has been previously obtained from the patient or, if applicable, a legal guardian. Appropriate steps shall be taken to protect patient identity and disguise any part of the art expression or video tape, which reveals patient identity.

(3) An art therapist shall obtain written, informed consent from a patient or legal guardian, if applicable, before displaying the patient's art in a:

(a) Gallery;

(b) Mental health facility;

(c) School; or

(d) Another public place.

(4) An art therapist shall display a patient's art expression in an appropriate and dignified manner.

Section 4. Professional Competence and Integrity. A professional art therapist shall maintain standards of professional competence and integrity and shall be subject to disciplinary action for:

(1) Misrepresentation or concealment of a material fact in obtaining or seeking reinstatement of a certificate;

(2) Refusing to comply with an order issued by the board; or

(3) Failing to cooperate with the board by not:

(a) Furnishing in writing a complete explanation to a complaint filed with the board;

(b) Appearing before the board at the time and place designated; or

(c) Properly responding to a subpoena issued by the board.

Section 5. Responsibility to a Student or Supervisee. A professional art therapist shall:

(1) Be aware of his influential position with respect to a student or supervisee;

(2) Avoid exploiting the trust and dependency of a student or supervisee;

(3) Try to avoid a social, business, personal, or other dual relationship that could:

(a) Impair professional judgment; and

(b) Increase the risk of exploitation;

(4) Take appropriate precautions to ensure that judgment is not impaired and to prevent exploitation if a dual relationship cannot be avoided;

(5) Not provide therapy to a:

(a) Student;

(b) Employee; or

- (c) Supervisee;
- (6) Not engage in sexual intimacy or contact with a:
 - (a) Student; or
 - (b) Supervisee;
- (7) Not permit a student or supervisee to perform or represent himself as competent to perform a professional service beyond his level of:
 - (a) Training;
 - (b) Experience; or
 - (c) Competence;
- (8) Not disclose the confidence of a student or supervisee unless:
 - (a) Permitted or mandated by law;
 - (b) It is necessary to prevent a clear and immediate danger to a person;
 - (c) During the course of a civil, criminal, or disciplinary action arising from the supervision, at which the professional art therapist is a defendant;
 - (d) In an educational or training setting, of which there are multiple supervisors or professional colleagues who share responsibility for the training of the supervisee;
 - (e) In accordance with the terms of a written informed consent agreement.

201 KAR 34:050. Complaint procedure.

RELATES TO: KRS 309.137

STATUTORY AUTHORITY: KRS 309.1315(1), (10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.1315 authorizes the board to promulgate administrative regulations establishing a procedure by which the board will institute actions against a certificate holder for violation of the KRS 309.137, and the administrative regulations promulgated thereto or for professional misconduct. This administrative regulation sets forth the procedure and process by which those complaints shall be reviewed by the board.

Section 1. Definitions. (1) "Act" means KRS 309.130 through 309.138.

(2) "Chairman" means the chairman or vice-chairman of the board.

(3) "Charge" means a specific allegation contained in a formal complaint, as established in subsection (5) of this section, issued by the board alleging a violation of a specified provision of the KRS 309.130 through 309.138 or the administrative regulations promulgated thereunder.

(4) "Complaint" means any written allegation of misconduct by an individual certified by the board or other person which might constitute a violation of KRS 309.130 through 309.138 or the administrative regulations promulgated thereunder.

(5) "Formal complaint" means a formal administrative pleading authorized by the board which sets forth charges against an individual certified by the board or other person and commences a formal disciplinary proceeding pursuant to KRS Chapter 13B or requests the court to take criminal or civil action.

(6) "Informal proceedings" means the proceedings instituted at any stage of the disciplinary process with the intent of reaching a dispensation of any matter without further recourse to formal disciplinary procedures under KRS Chapter 13B.

(7) "Investigator" means an individual designated by the board to assist the board in the investigation of a complaint.

Section 2. Receipt of Complaints. (1) A complaint:

(a) May be submitted to the board by an:

- 1. Individual;
- 2. Organization; or
- 3. Entity.

(b) Shall be:

- 1. In writing; and
- 2. Signed by the person offering the complaint.

(c) May be filed by the board based upon information in its possession.

(2) Upon receipt of a complaint:

(a) A copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint. The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(b) Upon receipt of the written response of the individual named in the complaint, a copy of the response shall be sent to the complainant. The complainant shall have seven (7) days from the receipt to submit a written reply to the response.

Section 3. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the board shall consider the individual's response, complainant's reply to the response, and any other relevant material available and determine whether a formal investigation of the complaint is warranted.

(2) If the board determines that a formal investigation is not warranted and that the complaint is without merit, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, it shall:

(a) Authorize an investigation into the matter; and

(b) Order a report to be made to the board at the earliest opportunity.

Section 4. Result of Formal Investigation. (1) Upon completion of the formal investigation, the investigator and the board attorney shall present a synopsis of the facts compiled in the investigation of the complaint to the board and a recommendation regarding the disposition of the complaint.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that probable cause exists that a violation of the Act or the administrative regulations promulgated thereunder has occurred, the board shall:

(a) Authorize the board attorney to prepare a formal complaint which states clearly the charge or charges to be considered at the hearing on the matter to be held pursuant to the requirements of KRS Chapter 13B; and

(b) Review the formal complaint which, if approved, shall be signed by the chairman and served upon the individual as required by KRS Chapter 13B.

(4) If the board determines that a person may be in violation of KRS 309.1305(2), it shall:

(a) Order the individual to cease and desist from further violations of KRS 309.1305(2); or

(b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 309.1305(2) with a request that appropriate action be taken under KRS 309.1339.

Section 5. Settlement by Informal Proceedings. (1) The board through counsel and board member designated by the board may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairman.

(3) The board may employ mediation as a method of resolving the matter informally.

